TABLE OF CONTENTS
SH 2252404

761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: January 10, 2011

OFFICE CORRESPONDENCE FILE NO. SH2252404

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: JOSEPH M. GOODEN, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
DEPUTY JAIME JUAREZ #[redacted]
DEPUTY [redacted] #[redacted]
DEPUTY MARCO MIRANDA #[redacted]
DEPUTY EDGAR LOPEZ #[redacted]
DEPUTY MICHAEL COBERG #[redacted]
COMPTON STATION

Deputies [redacted] and Jaime Juarez drove southbound on Lime Avenue and saw two male Hispanics emerge from a darkened alley in front of them. The suspects seemed surprised by the deputies presence and began to walk away. Both deputies exited their car and called the two suspects to the vehicle to investigate their activities.

One suspect complied and placed his hands on the hood of the radio car while Suspect Valdovinos continued to walk away. Both deputies ordered him to stop and to turn around; however, the suspect began to run southbound on the sidewalk toward Alondra Boulevard. When the suspect reached the sidewalk of Alondra Boulevard, he turned, reached into his waistband, produced a handgun and fired several rounds at the deputies. As the deputies moved for cover, the suspect at the radio car ran away northbound and out of sight.

After firing at the deputies, the suspect ran southeast, across Alondra Boulevard toward a strip mall, as the deputies followed from across the street on the north sidewalk. While following the suspect, they broadcasted details of the shooting and requested assistance. As the suspect ran eastbound along storefronts, he again fired at the deputies, at which time they returned fire and crossed Alondra Boulevard, continuing to exchange gunfire with the suspect.

The suspect then ran to entrance of the southbound 710 Freeway on-ramp, as Deputies Marco Miranda, Edgar Lopez, and Michael Coberg arrived and followed the suspect onto the ramp. They quickly stopped as the suspect tried to climb over a brick wall.

Deputies [redacted] and Juarez arrived on foot, advising the other deputies the suspect was armed and had shot at them. As the deputies exited their vehicles, the suspect fell to the ground, clutching his waistband. As the suspect stood, he placed one hand on his waistband. Deputies Miranda, Lopez, and Coberg believed the suspect was about to shoot at them, and fearing for their safety, each fired a volley of rounds, which struck the suspect.

Deputy Juarez sustained a "through and through" bullet wound to his right calf. It is believed he sustained this wound in the suspect's initial gunfire. Deputy Juarez was transported to Long Beach Memorial Hospital where he was treated and released. Deputies [redacted] Miranda, Lopez and Coberg were uninjured.

Suspect Valdovinos sustained multiple gunshot wounds to the head and torso. He was pronounced dead at the scene.

The suspect's weapon, a loaded Smith & Wesson 9mm pistol, was recovered at the scene in close proximity to the suspect's body. In the weapon's chamber, an expended shell casing was "stove-piped." Numerous shell casings and projectiles from the suspect's weapon and deputies' weapons were recovered at the scene.

The second suspect who fled the scene has not been identified.

On December 9, 2010 the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputies Jaime Juarez #[redacted] [redacted] #[redacted] Marco Miranda #[redacted] Edgar Lopez #[redacted] Michael Coberg #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

Eric B. Smith, Commander

EBS:RSP/rsp



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

May 24, 2010

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #: 09-0586
L.A.S.D. URN #: 009-15348-2847-013

Dear Captain Smith:

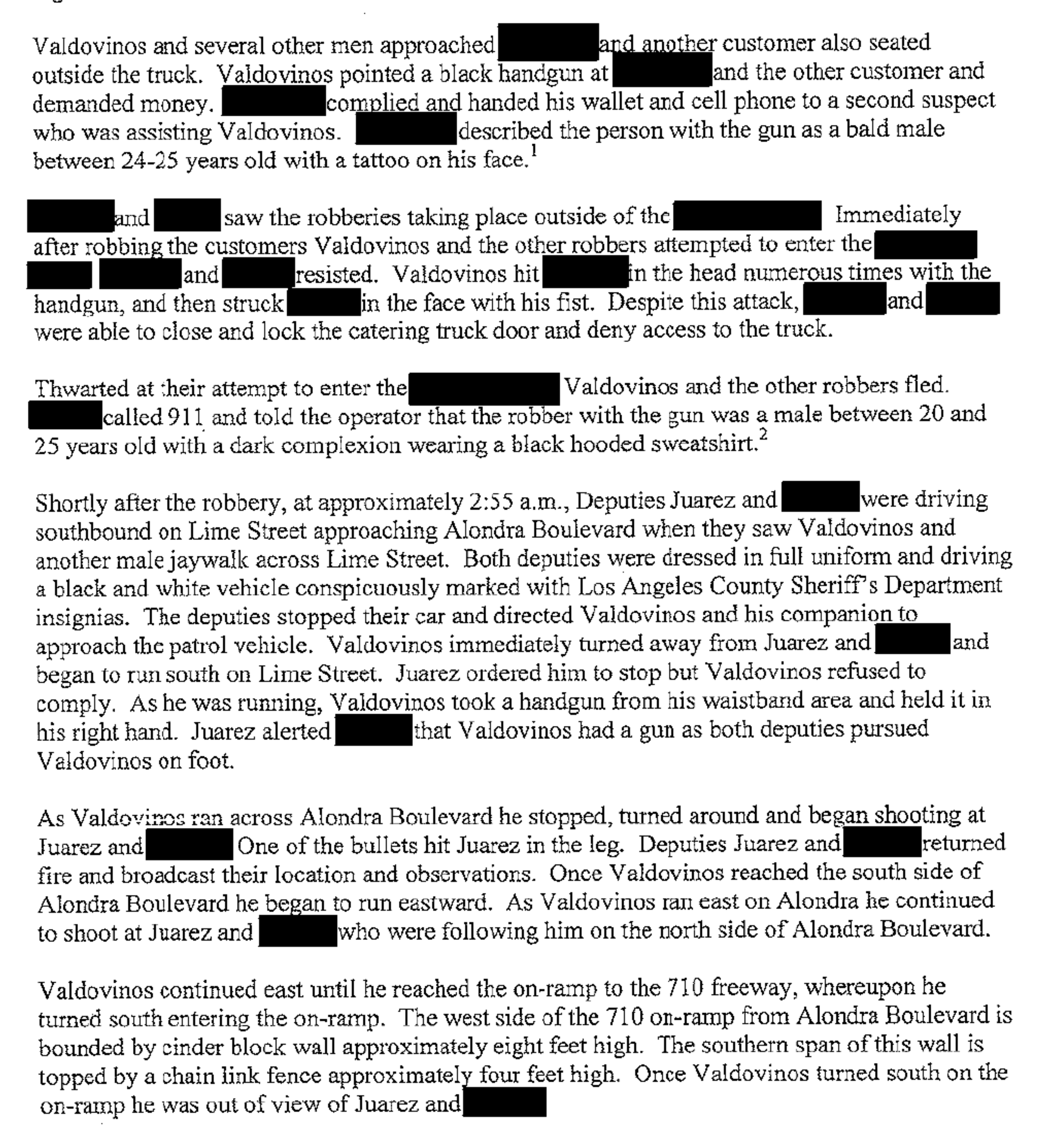
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 20, 2009, fatal shooting of Felipe Valdovinos by Los Angeles County Sheriff's (LASD) Deputies Jaime Juarez, [redacted] Marco Miranda, Edgar Lopez and Michael Coberg. We have determined that the deputies acted lawfully in self-defense, in the defense of each other and in the arrest of a dangerous fleeing felon.

The following analysis is based upon a series of reports prepared by the LASD submitted to this office on March 25, 2010. The District Attorney Command Center was notified of this shooting at 4:28 a.m. on September 19, 2009. The District Attorney Response Team (DART), consisting of Deputy District Attorney Shannon Presby and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the incident and a "walk-through" of the shooting scene. The DART also participated in witnesses interviews. No compelled statements were considered for purposes of this analysis.

FACTUAL ANALYSIS

In the early morning hours of September 19, 2009, [redacted] and [redacted] were working in a [redacted] parked at [redacted] in the City of Compton. [redacted] was seated outside the truck eating. At approximately 2:45 a.m.,

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Valdovinos and several other men approached [redacted] and another customer also seated outside the truck. Valdovinos pointed a black handgun at [redacted] and the other customer and demanded money. [redacted] complied and handed his wallet and cell phone to a second suspect who was assisting Valdovinos. [redacted] described the person with the gun as a bald male between 24-25 years old with a tattoo on his face.[1]

[redacted] and [redacted] saw the robberies taking place outside of the [redacted] Immediately after robbing the customers Valdovinos and the other robbers attempted to enter the [redacted] [redacted] [redacted] and [redacted] resisted. Valdovinos hit [redacted] in the head numerous times with the handgun, and then struck [redacted] in the face with his fist. Despite this attack, [redacted] and [redacted] were able to close and lock the catering truck door and deny access to the truck.

Thwarted at their attempt to enter the [redacted] Valdovinos and the other robbers fled. [redacted] called 911 and told the operator that the robber with the gun was a male between 20 and 25 years old with a dark complexion wearing a black hooded sweatshirt.[2]

Shortly after the robbery, at approximately 2:55 a.m., Deputies Juarez and [redacted] were driving southbound on Lime Street approaching Alondra Boulevard when they saw Valdovinos and another male jaywalk across Lime Street. Both deputies were dressed in full uniform and driving a black and white vehicle conspicuously marked with Los Angeles County Sheriff's Department insignias. The deputies stopped their car and directed Valdovinos and his companion to approach the patrol vehicle. Valdovinos immediately turned away from Juarez and [redacted] and began to run south on Lime Street. Juarez ordered him to stop but Valdovinos refused to comply. As he was running, Valdovinos took a handgun from his waistband area and held it in his right hand. Juarez alerted [redacted] that Valdovinos had a gun as both deputies pursued Valdovinos on foot.

As Valdovinos ran across Alondra Boulevard he stopped, turned around and began shooting at Juarez and [redacted] One of the bullets hit Juarez in the leg. Deputies Juarez and [redacted] returned fire and broadcast their location and observations. Once Valdovinos reached the south side of Alondra Boulevard he began to run eastward. As Valdovinos ran east on Alondra he continued to shoot at Juarez and [redacted] who were following him on the north side of Alondra Boulevard.

Valdovinos continued east until he reached the on-ramp to the 710 freeway, whereupon he turned south entering the on-ramp. The west side of the 710 on-ramp from Alondra Boulevard is bounded by cinder block wall approximately eight feet high. The southern span of this wall is topped by a chain link fence approximately four feet high. Once Valdovinos turned south on the on-ramp he was out of view of Juarez and [redacted]

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[1] This description matches the physical appearance of Valdovinos who was 27 years old at the time of this incident and had multiple tattoos on his head and face.

[2] Valdovinos was wearing a black hooded jacket at the time of this incident.

Deputies Edgar Lopez and Marco Miranda were on patrol when they heard the radio broadcast of a deputy involved shooting. As they responded to the call, the broadcast was updated indicating that the suspect was last seen entering the 710 on-ramp at Alondra Boulevard. Deputy Coberg heard the same broadcasts and also responded to the 710 on-ramp. Lopez, Miranda and Coberg arrived at the on-ramp at the same time and saw Valdovinos attempting to scale the chain link fence at the top of the cinder block wall.

Lopez, Miranda and Coberg got out of their patrol vehicles and ordered Valdovinos to stop and show his hands. Valdovinos left hand was grasping the chain link fence while his right hand was concealed at his waist area. After a moment, Valdovinos dropped from the fence to the ground and crouched facing away from Deputies Lopez, Miranda and Coberg. At that moment Coberg heard Deputies Juarez and [redacted] yell that Valdovinos had a gun and had shot a deputy. Coberg ordered Valdovinos to show his hands. Valdovinos did not comply. Instead he suddenly stood up and began to turn toward Lopez, Miranda and Coberg. Believing that Valdovinos was about to shoot them, Deputies Lopez, Miranda and Coberg fired at Valdovinos striking him numerous times. Valdovinos died from those injuries. A black .9mm handgun was recovered from the ground near where Valdovinos was shot.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense actually and reasonably believed that he, or the person defended, was in imminent danger of great bodily injury or death. People v. Randle (2005) 35 Cal. 4th 987, 994; People v. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. CALCRIM 3470.

Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal.App.2d 575.

A peace officer is entitled to use deadly force to capture a dangerous person who has committed a felony. A dangerous person is defined as one who (a) poses a significant threat of death or serious bodily injury to the person attempting the apprehension or others, or (b) has committed a forcible and atrocious felony. People v. Ceballos (1974) 12 Cal.3d 470. A forcible and atrocious felony is one that by its nature and manner of its commission reasonably creates a fear of death or great bodily injury. CALCRIM 505 (bench notes).

A police officer may use deadly force in the apprehension of a suspect where the officer has probable cause to believe that the suspect poses a threat of death or serious physical harm to the officer or others. This threat of harm exists if the suspect threatens the officer with a weapon or there is probable cause to believe that the suspect has committed a felony involving the infliction or threatened infliction of serious physical harm. Tennessee v. Garner (1985) 471 U.S. 1.

CONCLUSION

Valdovinos committed multiple armed robberies and assaults just prior to his contact with the deputies. When Deputies Juarez and [redacted] attempted to detain him, Valdovinos began shooting at them and wounded Juarez. Valdovinos engaged in a running gun battle with deputies as he fled down Alondra Boulevard, firing numerous times at Juarez and [redacted] These acts constituted an attempt to murder a peace officer and an assault with a semiautomatic firearm upon a peace officer. Further, Valdovinos' decision to shoot at Juarez and [redacted] demonstrated that he was willing kill in order to effectuate his escape. Juarez and [redacted] return fire was thus legally justified in self-defense, in defense of each other and in an effort to arrest a dangerous fleeing felon.

When Valdovinos was confronted by Deputies Lopez, Miranda and Coberg he was directed to show his hands. Instead, he crouched down with his back to the deputies and his right hand shielded from their view. These deputies knew that Valdovinos had shot and wounded Deputy Juarez just moments before. Despite repeated orders to show his hands Valdovinos abruptly turned toward Lopez, Miranda and Coberg with his right hand at his waist. Believing that Valdovinos was going to continue his deadly attack, Deputies Lopez, Miranda and Coberg fired to end the threat.

We find that LASD Deputies Jaime Juarez, [redacted] Marco Miranda, Edgar Lopez and Michael Coberg acted lawfully in self-defense and in the defense of each other, and in an effort to arrest an extremely dangerous fleeing felon when they shot Valdovinos. We are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

SHANNON PRESBY
Deputy District Attorney
(213) 974-3888

c: Deputy Jaime Juarez, Serial # [redacted]
Deputy [redacted] Serial # [redacted]
Deputy Marco Miranda, Serial # [redacted]
Deputy Edgar Lopez, Serial # [redacted]
Deputy Michael Coberg, Serial # [redacted]